

902 KAR 47:070. Standards for flammable fabrics and flammable fabric products.

RELATES TO: KRS 211.180

STATUTORY AUTHORITY: KRS Chapter 13B, 194.050, 211.090, 211.180, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194.050, 211.090 and 211.180 authorize the Cabinet for Health Services to adopt administrative regulations relating to all matters of public health including the detection, prevention, and control of home accidents and health hazards and the control of other factors, not assigned by law to another agency, as may be necessary to insure a safe environment. The function of this administrative regulation is to establish uniform flammability safety standards, labeling requirements, and testing procedures for clothing textiles, vinyl plastic films, children's sleepwear, carpets and rugs, and mattresses and mattress pads. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.

Section 1. Safety Standards, Labeling Requirements, and Testing Procedures for Flammable Fabrics and Flammable Fabric Products are governed by 16 Code of Federal Regulations (CFR) Parts 1610, 1611, 1615, 1616, 1630, 1631, 1632 January 1, 1991, as specified in this section. The federal regulations specified in this section are adopted without change.

(1) 16 CFR Part 1610, Sections 1610.1 through 1610.5; 1610.31 through 1610.40 and 1610.61 - Standard for the Flammability of Clothing Textiles.

(2) 16 CFR Part 1611, Sections 1611.1 through 1611.4 and 1611.31 through 1611.38 - Standard for the Flammability of Vinyl Plastic Film.

(3) 16 CFR Part 1615, Sections 1615.1 through 1615.5; 1615.31 through 1615.36; and 1615.62 through 1615.64 - Standard for the Flammability of Children's Sleepwear: Sizes 0 through 6X (FF 3-71).

(4) 16 CFR Part 1616, Sections 1616.1 through 1616.6; 1616.31 through 1616.36 and 1616.62 through 1616.65 - Standard for the Flammability of Children's Sleepwear: Sizes 7 through 14 (FF 5-74).

(5) 16 CFR Part 1630, Sections 1630.1 through 1630.5; 1630.31 through 1630.32 and 1630.61 through 1630.63 - Standard for the Surface Flammability of Carpets and Rugs (FF 1-70).

(6) 16 CFR Part 1631, Sections 1631.1 through 1631.5; 1631.31 through 1631.34, 1631.61, and 1631.62 - Standard for the Surface Flammability of Small Carpets and Rugs (FF 2-70).

(7) 16 CFR Part 1632, Sections 1632.1 through 1632.8; 1632.31 and 1632.63 - Standards for the Flammability of Mattresses and Mattress Pads (FF 4-72, Amended).

Section 2. A copy of these federal regulations is on file in the Office of the Commissioner, Department for Public Health, 275 East Main Street, Frankfort, Kentucky 40621, and is available for public inspection and copying, Monday through Friday, 8 a.m. to 4:30 p.m. Copies of these federal regulations are also available from the Superintendent of Documents, U.S. Government Printing Office Washington, D.C. 20402.

Section 3. Compliance. Flammable fabrics and flammable fabric products which are in compliance with standards established in the federal regulations adopted without change in this administrative regulation, shall be deemed to be in compliance with this administrative regulation.

Section 4. Issuance and Service of Notice of Noncompliance. (1) If test procedures adopted without change by this administrative regulation reveal that flammable fabrics and flammable fabric products are not in compliance with the standards set forth therein, the cabinet shall notify the owner of the violations in writing. The notification shall:

- (a) Set forth the specific violations found;
- (b) Establish a specific and reasonable period of time for the correction of the violations; and
- (c) State that an opportunity for appeal from the notice of noncompliance, in accordance with 902 KAR 1:400, shall be provided if a written request for a hearing is filed with the cabinet within fifteen (15) days of receipt of the notice of noncompliance.

(2) A notice shall be deemed to have been properly served if it has been:

- (a) Personally delivered to the owner of the manufacturing, wholesaling, or importing firm or person in charge; or if
- (b) Sent by registered or certified mail, return receipt requested, to the last known address of the owner or person in charge;
- (c) A copy of the notice shall be filed in the records of the cabinet.

Section 5. Hearings. (1) If an appeal of a notice of noncompliance is filed as provided by Section 4 of this administrative regulation, the cabinet shall:

- (a) Schedule a hearing; and

- (b) Notify the appellant in accordance with KRS 13B.050.

(2) The cabinet shall conduct the hearing in accordance with 902 KAR 1:400.

Section 6. Quarantine and Recall. (1) If a flammable fabric or flammable fabric product does not comply with the provisions of this administrative regulation, the manufacturer, distributor, or importer of the flammable fabric or flammable fabric product may be:

- (a) Requested by the cabinet to voluntarily recall the flammable fabric or flammable fabric product from wholesale or retail establishments to which they were distributed; or

- (b) Ordered by the cabinet to recall the flammable fabric or flammable fabric product.

(2) A flammable fabric or flammable fabric product that does not comply with the provisions of this administrative regulation may be quarantined by the cabinet.

(3) If a flammable fabric or flammable fabric product is recalled, the cabinet shall be provided with:

- (a) A copy of the recall notification;

- (b) A list of all establishments contacted;

- (c) The amount or number of flammable fabric or flammable products returned to the manufacturer, distributor or importer; and

- (d) The disposition of the flammable fabric or flammable fabric products recalled. (12 Ky.R. 1465; eff. 3-4-86; Am. 18 Ky.R. 1451; eff. 1-10-92; 22 Ky.R. 2478; eff. 8-1-96.)